



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R05-2012-0567; FRL-9914-94-Region-5]**

**Approval and Promulgation of Air Quality Implementation Plans;  
Indiana; Indiana PSD Increments**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve a component of a state implementation plan (SIP) submission from Indiana addressing EPA's requirements for the prevention of significant deterioration (PSD) program. The proposed rulemaking associated with today's final action was published on August 19, 2013.

**DATES:** This final rule is effective on [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2012-0567. All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly-available only in hard copy. Publicly-available docket

materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Andy Chang at (312) 886-0258 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Andy Chang, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-0258, [chang.andy@epa.gov](mailto:chang.andy@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

I. What is the background of the SIP submissions?

A. What state SIP submissions does this rulemaking address?

B. Why did the state make these SIP submissions?

C. What is the scope of this rulemaking?

II. What action is EPA taking?

III. Statutory and Executive Order Reviews.

**I. What is the background of the SIP submissions?**

A. What state SIP submissions does this rulemaking address?

This final rulemaking addresses a portion of a July 12, 2012, submission and a December 12, 2012, supplemental submission from the Indiana Department of Environmental Quality (IDEM). These submissions were made to satisfy certain EPA requirements for the state's PSD program.

B. Why did the state make these SIP submissions?

On October 20, 2010, EPA issued the final rule on the "Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers ( $PM_{2.5}$ ) - Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC)" (2010 NSR Rule). This rule established several components for making PSD permitting determinations for  $PM_{2.5}$ , including a system of "increments" which is the mechanism used to estimate significant deterioration of ambient air quality for a pollutant. These increments are codified in 40 CFR 51.166(c) and 40 CFR 52.21(c), and are included in the table below.

**Table 1:  $PM_{2.5}$  Increments Established by the 2010 NSR Rule in micrograms per cubic meter**

	Annual arithmetic mean	24-hour max
Class I	1	2
Class II	4	9
Class III	8	18

On July 12, 2012, and supplemented on December 12, 2012, IDEM submitted revisions intended to address the increments established by the 2010 NSR Rule for incorporation into the SIP. Specifically, revisions to 326 IAC 2-2-6(b) contained the Federal increments for PM<sub>2.5</sub> for Class II areas.

C. What is the scope of this rulemaking?

On August 19, 2013, EPA proposed to approve various Clean Air Act (CAA) requirements, including Indiana's satisfaction of the infrastructure SIP requirements<sup>1</sup> for the 2008 ozone and 2008 lead National Ambient Air Quality Standards, Indiana's satisfaction of the state board requirements obligated by section 128 of the CAA, and Indiana's satisfaction of the PSD requirements obligated by the 2010 NSR Rule. Among these components was 326 IAC 2-2-6(b), which contains the Federally promulgated PM<sub>2.5</sub> increments for Class II areas in the state. Currently, there are no Class I or Class III areas in the state, and EPA did not receive any comments related to its proposed approval of this provision.<sup>2</sup>

**II. What action is EPA taking?**

For the reasons discussed in our August 19, 2013, proposed rulemaking, EPA is taking final action to approve, as proposed,

---

1 The infrastructure SIP requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the CAA.

2 EPA did receive an adverse comment related to Indiana's lack of increments for Class I and Class III areas. We will address this comment in a future rulemaking.

326 IAC 2-2-6(b) into Indiana's SIP. Specifically, 326 IAC 2-2-6(b) contains the Federally promulgated PM<sub>2.5</sub> increments for Class II areas, pursuant to 40 CFR 51.166(c) and 40 CFR 52.21(c).

### **III. Statutory and Executive Order Reviews.**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not

impose substantial direct costs on Tribal governments or preempt Tribal law.

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule

or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control,  
Incorporation by reference, Intergovernmental relations,  
Reporting and recordkeeping requirements.

Dated: July 29, 2014.

Susan Hedman,  
Regional Administrator, Region 5.



40 CFR part 52 is amended as follows:

**PART 52-- APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

2. In § 52.770 the table in paragraph (c) is amended by revising the entry for "2-2-6" to read as follows:

**§ 52.770 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

**EPA-APPROVED INDIANA REGULATIONS**

Indiana citation	Subject	Indiana effective date	EPA approval date	Notes
* * * * *				
Rule 2. Prevention of Significant Deterioration (PSD) Requirements				
* * * * *				
2-2-6	Increment consumption; requirements	7/11/2012	[INSERT THE DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	(b) only
* * * * *				

\* \* \* \* \*